

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**COMPLAINT**

1. This is an action under the Freedom of Information Act (FOIA), 5 USC §552, for injunctive and other appropriate relief and seeking the disclosure and release of agency records pertaining to Frank Black Horse improperly withheld from plaintiff by defendant Department of Justice (DOJ) and its component Federal Bureau of Investigation (FBI).

Frank Black Horse, whose actual name is Frank Leonard Deluca, was arrested by Canadian authorities in Hinton, Alberta, Canada, on February 6, 1976, along with Leonard Peltier. Mr. Black Horse remains a free man in Canada and was never extradited back to the United States, in spite of the fact that he was under indictment for wounding FBI Special Agent Curtis A. Fitzgerald on March 11, 1973 in Wounded Knee, South Dakota. Further, Mr. Black Horse was sought for questioning by the FBI as part of its RESMURS investigation, which dealt with the shooting deaths of FBI Special Agents

Jack Coler and Ronald Williams at the Pine Ridge Indian Reservation in South Dakota on June 26, 1975.

### **Jurisdiction and Venue**

2. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 USC §552 (a) (4) (B). This Court also has jurisdiction over this action pursuant to 28 USC §1331. Venue lies in the district under 5 USC §552 (a) (4) (B).

### **Parties**

3. Plaintiff Michael Kuzma is an attorney and a resident of Buffalo, New York. Since 2001, he has utilized FOIA to secure records from the DOJ and the FBI relating to Leonard Peltier, RESMURS, and the American Indian Movement.

4. Defendant DOJ is a Department of the Executive Branch of the United States Government, and includes component entity FBI. The DOJ is an agency within the meaning of 5 USC §552 (f).

### **Facts**

5. By letter dated May 13, 2004, addressed to defendant DOJ, plaintiff requested copies of all records pertaining to the case of United States of America v. Frank Black Horse. See Exhibit 1.

6. By letter dated June 23, 2004, Mr. Thomas J. McIntyre, Chief, Freedom of Information/Privacy Act Unit, DOJ, Criminal Division, advised plaintiff “ . . . that due to privacy considerations only public records or news clippings, if they exist, can be disclosed.” See Exhibit 2.

7. By letter dated July 6, 2004, plaintiff advised DOJ that he was interested in receiving copies of any public court records or news clippings it may possess pertaining to the case of USA v. Frank Black Horse and that he would pay reasonable costs incurred in connection with the processing of this request. See Exhibit 3.

8. By letter dated August 31, 2004, defendant DOJ advised plaintiff that it would conduct a search for public source material and that he would be advised further when the search had been completed. See Exhibit 4.

9. By letter dated March 27, 2006, addressed to defendant, plaintiff inquired as to the status of his FOIA request. See Exhibit 5.

10. By letter dated April 18, 2006, defendant DOJ advised plaintiff that its search located a very large file indexed under Wounded Knee, portions of which concern USA v. Frank Black Horse. Defendant DOJ further informed plaintiff that an analyst was searching through all of the records to locate any public source material pertaining to United States v. Frank Black Horse. See Exhibit 6.

11. By letter dated September 5, 2006, addressed to defendant DOJ, plaintiff inquired as to the status of his FOIA request. See Exhibit 7.

12. By letter dated September 14, 2006, defendant DOJ advised plaintiff that an analyst had completed the processing of pertinent records and that it was in the final stage of supervisory review. See Exhibit 8.

13. By letter dated November 14, 2008, FBI advised plaintiff that the DOJ had located approximately 927 pages of FBI information in its records that was potentially responsive to his FOIA request and that the estimated copying costs would be \$82.70. See Exhibit 9.

14. By letter dated November 28, 2008, plaintiff sent the FBI a remittance in the amount of \$82.70 to cover anticipated copying costs. See Exhibit 10.

15. On or about December 18, 2008, plaintiff's letter of November 28, 2008 and remittance in the amount of \$82.70 was returned to him by the FBI without explanation.

16. By letter dated January 20, 2009, addressed to the FBI, plaintiff inquired as to why his letter of November 28, 2008 and remittance in the amount of \$82.70 had been returned. See Exhibit 11.

17. On February 24, 2009, Mr. Barry McKay, FBI, left a voicemail message for plaintiff concerning his FOIA request.

18. On February 25, 2009, plaintiff telephoned Mr. McKay, FBI, and informed him that he was only interested in receiving copies of public source material relating to Frank Black Horse.

19. By letter dated February 25, 2009, FBI advised plaintiff that the sought-after documents were exempt pursuant to 5 USC §552 (b) (6) and/or (b) (7) (C). See Exhibit 12.

20. By letter dated April 6, 2009, addressed to FBI, plaintiff advised FBI that he was only interested in receiving public source material concerning Frank Black Horse. See Exhibit 13.

21. By letter dated April 6, 2009, addressed to DOJ, plaintiff treated the letter dated February 25, 2009 from the FBI as a denial and filed an administrative appeal. See Exhibit 14.

22. By letter dated April 29, 2009, DOJ advised plaintiff that his administrative appeal dated April 6, 2009 had been received on April 23, 2009 and that it had been assigned number 09-1580. See Exhibit 15.

23. By letter dated July 14, 2009, DOJ advised plaintiff that since the FBI had reopened his FOIA request and was currently processing responsive documents for release, appeal number 09-1580 was being closed. See Exhibit 16.

24. By letter dated April 27, 2009, the FBI advised plaintiff that potentially responsive public source documents may exist and that his request had been reopened. See Exhibit 17.

25. By letter dated May 14, 2009, FBI advised plaintiff that there was no public source material contained in the documents that had been referred from DOJ/Criminal Division. See Exhibit 18.

26. By letter dated June 12, 2009, addressed to DOJ, plaintiff filed a second administrative appeal. See Exhibit 19.

27. By letter dated June 30, 2009, DOJ advised plaintiff that his appeal had been received on June 26, 2009 and had been assigned number 09-2095. See Exhibit 20.

28. By letter dated September 11, 2009, DOJ affirmed the FBI's determination not to disclose the records referred to it by the DOJ/Criminal Division. See Exhibit 21.

29. Plaintiff has exhausted the applicable administrative remedies with respect to his FOIA request to defendant DOJ.

Defendant DOJ has wrongfully withheld the requested records from plaintiff.

**Requested Relief**

Wherefore, plaintiff prays that this Court:

1. order defendant to disclose the requested records in their entireties and make copies available to plaintiff;
  2. provide for expeditious proceedings in this action;
  3. award plaintiff its costs and reasonable attorneys fees incurred in this action;
- and
4. grant such other relief as the Court may deem just and proper.

Dated: February 3, 2012

Respectfully submitted,

s/peter a. reese  
Peter A. Reese, Esq.  
Counsel for Plaintiff  
49 Starin Avenue  
Buffalo, NY 14214  
(716) 836-5027  
preese270@aol.com

s/daire brian Irwin  
Daire Brian Irwin, Esq.  
Counsel for Plaintiff  
210 Voorhees Avenue  
Buffalo, NY 14214  
(716) 837-5631  
dbi59@roadrunner.com

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 1**

**Michael Kuzma**

*Attorney at Law*

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1893 Clinton Street  
Buffalo, New York 14206

(716) 822-7645 • fax (716) 823-1815

May 13, 2004

Mr. Thomas J. McIntyre, Chief  
FOIA/PA Unit, Criminal Division  
U. S. Department of Justice  
Suite 1127, Keeney Building  
Washington, D. C. 20530-0001

**RE: FREEDOM OF INFORMATION ACT REQUEST**

Dear Mr. McIntyre:

This is a request under the Freedom of Information Act (FOIA), 5 USC 552, and the regulations promulgated thereunder. I will pay any reasonable fee incurred in connection with the processing of this request.

I hereby request a complete and thorough search of all filing systems and locations for all records maintained by your agency pertaining to the case of United States of America v. Frank Black Horse. It should be noted that a Federal Grand Jury in Sioux Falls, South Dakota, indicted Frank Black Horse on August 29, 1974 for allegedly shooting FBI Special Agent Curtis A. Fitzgerald at Wounded Knee, South Dakota, on March 11, 1973. This case was ultimately assigned to United States District Judge Andrew W. Bogue, Rapid City, South Dakota.

For inactive records maintained on microfilm as well as investigative information kept in computerized form, whether it is stored in memory, on disk storage, on computer tape, or on a computer printed listing, please provide me with copies of this material in hard copy form.

If documents are denied in part or in whole, please specify which exemption(s) is (are) claimed for each passage or whole document denied. Please provide a complete itemized inventory and a detailed factual justification of total or partial denial of documents. Specify the number of pages in each document and the total number of pages pertaining to this request. For "classified" material denied, please include the following information: the classification (confidential, secret or top secret); identity of the classifier; date or event for automatic declassification or classification review or downgrading; if applicable, identity of official authorizing extension of automatic declassification or review past six years; and, if applicable, the reason for extended classification beyond six years.



In excising material, please "black out" the material rather than "white out" or "cut out." I expect, as provided by the FOIA, that the remaining non-exempt portions of documents will be released.

I want all pages released regardless of the extent of excising, even if all that remains are the stationery headings or administrative markings.

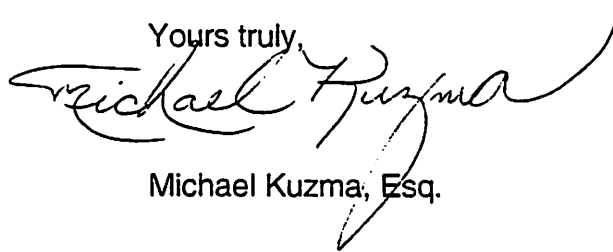
As I expect to appeal any denials, please specify the office and address to which an appeal should be directed.

If copying fees exceed \$100, I reserve the right to review the documents which are responsive to this request in person so that I may select only those documents which I want photocopied.

Please send a memo (copy to me) to the appropriate units in your office to assure that no records related to this request are destroyed. Please advise of any destruction of the sought-after information and the date of and authority for such destruction.

In your agency's response, please identify all the systems of records searched to accommodate my request as well as the scope, depth, and nature of the search. I fully expect a response to this request within 20 working days as provided for under the FOIA.

Yours truly,

A handwritten signature in black ink, appearing to read "Michael Kuzma", with a long, sweeping flourish extending to the right.

Michael Kuzma, Esq.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 2**



Criminal Division

Office of Enforcement Operations

Washington, D.C. 20530

CRM- 200400764F

JUN 23 2004

Michael Kuzma  
1893 Clinton Street  
Buffalo, New York 14206

Dear Mr. Kuma:

This is in response to your request dated May 13, 2004 for records pertaining to the case of USA v. Frank Black Horse.

Because the records you request pertain to an individual who has been federally prosecuted and convicted, we will be able to furnish certain responsive records pertaining to this individual's prosecution or conviction. Please be advised however, that due to privacy considerations only public court records or news clippings, if they exist, can be disclosed. Without authorization from the subject of your request, a showing that he is deceased, or that release of the information you are seeking would disclose the operations of the government sufficient to outweigh any privacy interests any additional materials must be withheld pursuant to the privacy exemptions of the Freedom of Information Act 5 U.S.C. §552 (b):

- (6) which permits the withholding of personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (7) which permits the withholding of records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information...
- (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy;

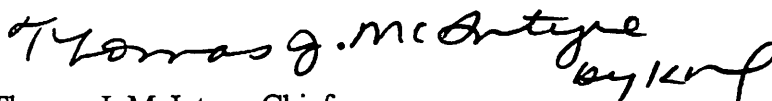
If you are interested in obtaining materials limited to court record or news clippings, please advise this Office and we will conduct a search and make any located responsive public records available to you. If we do not hear from you within 45 days, we will assume that you are not interested in obtaining public records and close out your request in this office.

Please be advised that this Office processes only records maintained by the Criminal Division of the United States Department of Justice. Your request also seeks information maintained by one or more other components of the Justice Department, or other Federal agencies. The enclosed list contains the addresses of the other offices to which you may wish to send requests, if you have not done so already. We have highlighted any office you have

mentioned specifically.

If you treat this response as a denial of your request, either partial or full, you have a right to an administrative appeal. Department regulations provide that such appeals must be filed within sixty day of your receipt of this letter. 28 C.F.R. 16.9. Your appeal should be addressed to: Co-Director, Office of Information and Privacy , Flag Building, Suite 570, United States Department of Justice, Washington, D.C. 20530. Both the envelope and the letter should be clearly marked with the legend "FOIA Appeal." If , on appeal, this initial denial is affirmed in full or part, you may seek judicial review in a federal district court located in the District of Columbia, the district in which you reside, the one in which you have you principal place of business, or the one in which the records sought are located. If you elect to file an appeal, please include, in your letter to the Office of Information and Privacy, the Criminal Division file number that appears above your name in this letter.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. McIntyre". To the right of the signature, there is a smaller, less legible handwritten mark that appears to be "by kmp".

Thomas J. McIntyre, Chief  
Freedom of Information/ Privacy Act Unit

**FREEDOM OF INFORMATION ACT/  
PRIVACY ACT CONTACTS LIST (ABRIDGED)**

[Note: A complete list of all agency contacts can be obtained on the Internet by going to "www.usdoj.gov/04foia" and looking under "Department Components," for offices of the Justice Department, or "Principal FOIA Contacts at Federal Agencies," for other government agencies. Regulations for making FOIA or Privacy Act requests and appeals to the Justice Department only may be found in Volume 28 of the Code of Federal Regulations at Part 16.1-16.12 (FOIA) and 16.40-16.55 (Privacy Act)]

**DEPARTMENT OF JUSTICE COMPONENTS**

**Offices of the Attorney General, Deputy Attorney General or  
Associate Attorney General**

Requests for records of these Offices should be addressed to:

Deputy Director  
Office of Information and Privacy  
Suite 570, Flag Building  
Department of Justice  
Washington, DC 20530-0001

**Bureau of Alcohol, Tobacco, Firearms and Explosives**  
Chief, Disclosure Division  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
Department of Justice  
Washington, D.C. 20226

**Civil Division**  
Freedom of Information/Privacy Act Officer  
Civil Division  
Room 7304, 20 Massachusetts Avenue, N.W.  
Department of Justice  
Washington, DC 20530-0001

**Civil Rights Division**  
Chief, FOIA/PA Branch  
Civil Rights Division  
Room 311, NALC Building  
950 Pennsylvania Avenue, N.W.  
Department of Justice  
Washington, DC 20530

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**Drug Enforcement Administration**

Chief  
Freedom of Information Operations Unit  
Drug Enforcement Administration  
Department of Justice  
700 Army Navy Drive  
Arlington, VA 22202

**Executive Office for United States Attorneys**

Assistant Director, FOIA/Privacy Unit  
Executive Office for United States Attorneys  
Room 7300, 600 E Street, N.W.  
Department of Justice  
Washington, DC 20530-0001

**Federal Bureau of Investigation**

Chief, Records Information Dissemination Section  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N.W.  
Department of Justice  
Washington, DC 20535-0001

Note: (For Criminal History Records (Rap Sheets) only)  
Requests for Rap Sheets should be sent to the FBI, Criminal  
Justice Information Services Division, Attn: SCU, MOD. D-2, 1000  
Custer Hollow Road, Clarksburg WV 36306. Requests must be  
accompanied by the subject's full name, date and place of birth  
and a set of rolled ink fingerprint impressions placed upon  
fingerprint cards or forms commonly utilized for applicant or law  
enforcement purposes by law enforcement agencies. A fee of \$18  
in the form of a certified check or money order payable to the  
Treasury of the United States must also be enclosed. Further  
information appears at 28 C.F.R. §§16.32-16.33.

**Federal Bureau of Prisons**

Chief, FOIA Section  
Office of the Director  
FOIA/Privacy Act Requests  
Room 841, HOLC Building  
Bureau of Prisons  
Department of Justice  
Washington, DC 20534

**INTERPOL-United States National Central Bureau**

FOIA/PA Specialist  
INTERPOL-United States National Central Bureau  
Department of Justice  
Washington, DC 20530-0001

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**Office of the Inspector General**

FOIA Paralegal Specialist  
Office of the Inspector General  
Room 4261, 950 Pennsylvania Avenue, N.W.  
Department of Justice  
Washington, DC 20530-0001

**Office of Justice Programs**

FOIA Legal Technician  
Office of Justice Programs  
Room 5400, 810 7th Street, N.W.  
Department of Justice  
Washington, DC 20531

**Tax Division**

Senior Division Counsel for FOIA and PA Matters  
Tax Division  
CTS-Eastern Region  
Department of Justice  
Ben Franklin Station  
Post Office Box 227  
Washington, DC 20044

**United States Marshals Service**

FOIA/PA Officer  
Office of General Counsel  
United States Marshals Service  
Suite 1250, 600 Army Navy Drive  
Department of Justice  
Arlington, VA 22202-4210

**United States Parole Commission**

FOIA Officer  
United States Parole Commission  
Suite 420, 5550 Friendship Boulevard  
Department of Justice  
Chevy Chase, Maryland 20815

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**OTHER FEDERAL AGENCIES**

**Bureau of Citizenship and Immigration Services**

Processing of Bureau of Citizenship and Immigration Services FOIA/PA record requests is decentralized and should be directed to the Bureau field office nearest your place of residence. If you do not know which office has the records you seek, you may obtain the appropriate address by writing to:

Director  
Freedom of Information Act/Privacy Act Program  
Bureau of Citizenship and Immigration Services  
2nd floor, 425 Eye Street, N.W.  
ULLICO Building  
Washington, DC 20536

**Bureau of Customs and Border Protection**

FOIA Paralegal Specialist  
Room 3.4A  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C. 20229

**Central Intelligence Agency**

FOIA and Privacy Coordinator  
Washington, D.C. 20505

**Department of State**

Director, Office of IRM Programs,  
SA-2, 5th Floor  
Washington, D.C. 20522-6001

**Internal Revenue Service**

Director, Freedom of Information  
Office of Disclosure  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

**National Archives**

FOIA Officer  
Office of the General Counsel  
8601 Adelphi Road, Room 3110  
College Park, MD 20740-6001

**United States Secret Service**

FOIA/PA Officer  
Suite 3000, 950 H Street, N.W.  
Washington, D.C. 20223



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 3**

Michael Kuzma

1893 Clinton Street

Buffalo, New York 14206

716.822.7645 • 716.823.1815 fax

Kuzma\_Michael@hotmail.com

July 6, 2004

Mr. Thomas J. McIntyre, Chief  
FOIA/PA Unit, Criminal Division  
U. S. Department of Justice  
Suite 1127, Keeney Building  
Washington, D. C. 20530-0001

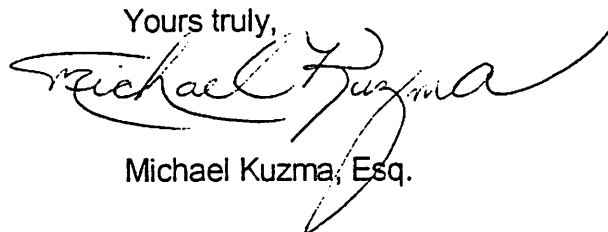
RE: FILE NUMBER CRM-200400764F

Dear Mr. McIntyre:

In regard to your letter dated June 23, 2004, please send me copies of any public court records or news clippings your agency may possess pertaining to the case of USA v. Frank Black Horse. As I indicated in my original FOIA request of May 13, 2004, I am willing to pay any reasonable costs incurred in connection with the processing of this request.

Thank you for your kind consideration in this matter.

Yours truly,

A handwritten signature in black ink that reads "Michael Kuzma". The signature is fluid and cursive, with the first name "Michael" and last name "Kuzma" clearly legible.

Michael Kuzma, Esq.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 4**



**U.S. Department of Justice**

**Criminal Division**

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*Office of Enforcement Operations*

*Washington, D.C. 20530*

CRM-200400764F

AUG 31 2004

Mr. Michael Kuzma  
Attorney at Law  
1893 Clinton Street  
Buffalo, New York 14206

Dear Mr. Kuzma:

This is in response to your request dated July 6, 2004, for copies of any public records pertaining to the case of USA V. Frank Black Horse.

We will conduct a search for public source material and advise you further when our search has been completed.

Sincerely,

A handwritten signature in black ink that reads "Thomas J. McIntyre" with a stylized flourish at the end.

Thomas J. McIntyre, Chief  
Freedom of Information/ Privacy Act Unit

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 5**

1893 Clinton Street

Buffalo, New York 14206

716.822.7645 • 716.823.1815 fax

Kuzma\_Michael@hotmail.com

Michael Kuzma

March 27, 2006

Mr. Thomas J. McIntyre  
FOIA/PA Unit  
Criminal Division  
U. S. Department of Justice  
Suite 1127, Keeney Building  
Washington, DC 20530-0001

***RE: FILE NUMBER CRM-200400764F***

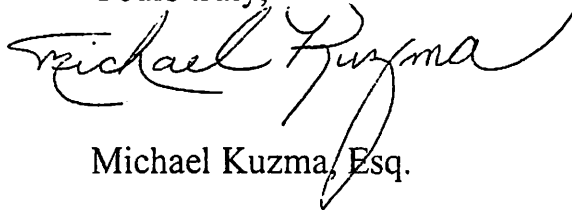
Dear Mr. McIntyre:

In regard to your letter dated August 31, 2004, what is the status of my FOIA request dated May 31, 2004?

May I hear from you concerning this matter at your earliest possible convenience.

Thank you.

Yours truly,

A handwritten signature in cursive script that reads "Michael Kuzma". The signature is fluid and extends to the right.

Michael Kuzma, Esq.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 6**



Criminal Division

Office of Enforcement Operations

Washington, D.C. 20530

CRM-200400764F

Mr. Michael Kuzma  
1893 Clinton Street  
Buffalo, New York 14206

APR 12 2006

Dear Mr. Kuzma:

This is in response to your letter dated March 27, 2006, in which you inquire as to the status of your request for public source material pertaining to the case of USA v. Frank Black Horse.

Our search has located a very large file indexed under Wounded Knee, portions of which concern USA v. Frank Black Horse. An analyst is currently searching through all of the records to locate any public source material pertaining to U.S. v. Frank Black Horse. We have also been advised that approximately fifteen sections of this file have been transferred to the National Archives. Therefore, you may wish to make a request to the National Archives if you have not already done so. That address is highlighted on the enclosed list of contacts for your assistance. We will advise you further when our processing has been completed. Your continued patience is appreciated.

If you deem our failure to comply with the applicable deadlines to be a denial of your request, you have a right to an administrative appeal. The appeal should be in writing and addressed to: Office of Information and Privacy, United States Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, DC 20530-0001. The envelope and letter should be clearly marked, "FOIPA Appeal". If on appeal your request is denied, judicial review will be available to you in the district in which you reside, in which you have your principal place of business, in which the records denied to you are located, or the District of Columbia. If you elect to file an appeal, please include, in your letter to the Office of Information and Privacy, the Criminal Division file number that appears above your name in this letter.

Sincerely,

Thomas J. McIntyre, Chief  
Freedom of Information/Privacy Act Unit



**Please Note:** This Office processes only records maintained by the Criminal Division of the United States Department of Justice. Upon review of your request, it appears that one or more other components of the Justice Department, or other Federal agencies, may maintain records responsive to your request. This list contains the addresses of other offices to which you may wish to send requests, if you have not done so already. We have highlighted the office or offices we believe may also have records responsive to your request.

**FREEDOM OF INFORMATION ACT/  
PRIVACY ACT CONTACTS LIST (ABRIDGED)**

[Note: A complete list of all agency contacts can be obtained on the Internet by going to "www.usdoj.gov/04foia" and looking under "Department Components," for offices of the Justice Department, or "Principal FOIA Contacts at Federal Agencies," for other government agencies. Regulations for making FOIA or Privacy Act requests and appeals to the Justice Department only may be found in Volume 28 of the Code of Federal Regulations at Part 16.1–16.12 (FOIA) and 16.40–16.55 (Privacy Act)]

**DEPARTMENT OF JUSTICE COMPONENTS**

**Offices of the Attorney General, Deputy Attorney General or Associate Attorney General**  
Requests for records of these Offices should be addressed to:

Deputy Director  
Office of Information and Privacy  
Suite 570, Flag Building  
Department of Justice  
Washington, DC 20530-0001

**Bureau of Alcohol, Tobacco, Firearms and Explosives**  
Chief, Disclosure Division  
Bureau of Alcohol, Tobacco, Firearms and Explosives  
Department of Justice  
Washington, D.C. 20226

**Civil Division**  
Freedom of Information/Privacy Act Officer  
Civil Division  
Room 7304, 20 Massachusetts Avenue, N.W.  
Department of Justice  
Washington, DC 20530-0001

**Civil Rights Division**

Chief, FOIA/PA Branch

Civil Rights Division

Room 311, NALC Building

950 Pennsylvania Avenue, N.W.

Department of Justice

Washington, DC 20530

**Drug Enforcement Administration**

Chief

Freedom of Information Operations Unit

Drug Enforcement Administration

Department of Justice

700 Army Navy Drive

Arlington, VA 22202

**Executive Office for United States Attorneys**

Assistant Director, FOIA/Privacy Unit

Executive Office for United States Attorneys

Room 7300, 600 E Street, N.W.

Department of Justice

Washington, DC 20530-0001

**Federal Bureau of Investigation**

Chief, Records Information Dissemination Section

Federal Bureau of Investigation

935 Pennsylvania Avenue, N.W.

Department of Justice

Washington, DC 20535-0001

**Note: (For Criminal History Records (Rap Sheets) only)**

Requests for Rap Sheets should be sent to the FBI, Criminal Justice Information Services Division, Attn: SCU, MOD. D-2, 1000 Custer Hollow Road, Clarksburg WV 36306. Requests must be accompanied by the subject's full name, date and place of birth and a set of rolled ink fingerprint impressions placed upon fingerprint cards or forms commonly utilized for applicant or law enforcement purposes by law enforcement agencies. A fee of \$18 in the form of a certified check or money order payable to the Treasury of the United States must also be enclosed. Further information appears at 28 C.F.R. §§16.32-16.33.

**Federal Bureau of Prisons**

Chief, FOIA Section  
Office of the Director  
FOIA/Privacy Act Requests  
Room 841, HOLC Building  
Bureau of Prisons  
Department of Justice  
Washington, DC 20534

**INTERPOL-United States National Central Bureau**

FOIA/PA Specialist  
INTERPOL-United States National Central Bureau  
Department of Justice  
Washington, DC 20530-0001

**Office of the Inspector General**

FOIA Paralegal Specialist  
Office of the Inspector General  
Room 4261, 950 Pennsylvania Avenue, N.W.  
Department of Justice  
Washington, DC 20530-0001

**Office of Justice Programs**

FOIA Legal Technician  
Office of Justice Programs  
Room 5400, 810 7th Street, N.W.  
Department of Justice  
Washington, DC 20531

**Tax Division**

FOIA/PA Officer, Tax Division  
CTS-Eastern Region  
Department of Justice  
Ben Franklin Station  
Post Office Box 227  
Washington, DC 20044

**United States Marshals Service**

FOIA/PA Officer  
Office of General Counsel  
United States Marshals Service  
CS-3, Twelfth Floor  
Department of Justice  
Arlington, VA 22202-4210

**United States Parole Commission**  
FOIA Officer  
United States Parole Commission  
Suite 420, 5550 Friendship Boulevard  
Department of Justice  
Chevy Chase, Maryland 20815

**DEPARTMENT OF HOMELAND SECURITY COMPONENTS**

**Citizenship and Immigration Services**  
(Formerly Immigration and Naturalization Service)

Processing of Citizenship and Immigration Services FOIA/PA record requests is decentralized and should be directed to the Bureau field office nearest your place of residence. If you do not know which office has the records you seek, you may obtain the appropriate address by writing to:

Director  
Freedom of Information Act/Privacy Act Program  
Citizenship and Immigration Services  
111 Massachusetts Avenue, N.W., 2nd Floor  
ULLICO Building  
Washington, D.C. 20529

**Bureau of Customs and Border Protection**  
FOIA Unit, Office of Field Operations  
Room 5.5C  
1300 Pennsylvania Avenue, N.W.  
Washington, D.C. 20229

**U.S. Immigration and Customs Enforcement (ICE)**  
FOIA/PA Section  
Information Disclosure Unit  
Mission Support Division  
Office of Investigations  
425 I Street NW - Room 4038  
Washington, D.C. 20536

**United States Secret Service**  
FOIA/PA Officer  
Bldg. 410  
245 Murray Drive  
Washington, D.C. 20223

**OTHER FEDERAL AGENCIES**

**Central Intelligence Agency**  
FOIA and Privacy Coordinator  
Washington, D.C. 20505

**Department of State**  
Director, Office of IRM Programs,  
SA-2, 5th Floor  
Washington, D.C. 20522-6001

**Department of the Treasury**  
Disclosure Officer  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220

**Internal Revenue Service**  
Director, Freedom of Information  
Office of Disclosure  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

**National Archives**  
FOIA Officer  
Office of the General Counsel  
8601 Adelphi Road, Room 3110  
College Park, MD 20740-6001

10/20/05

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 7**



**Michael Kuzma**

*Attorney at law*

**1893 Clinton Street  
Buffalo, New York 14206**

**716.822.7645**

**Fax: 716.823.1815 Cell: 716.474.3824**

**kuzma\_michael@hotmail.com**

**FEDERAL EXPRESS #8574 2437 0806**

September 5, 2006

Mr. Thomas J. McIntyre, Chief  
FOIA/PA Unit  
Criminal Division  
U. S. Department of Justice  
Suite 1127, Keeney Building  
Washington, DC 20530-0001

***RE: FILE NUMBER CRM-200400764F***

Dear Mr. McIntyre:

What is the status of my FOIA request dated May 31, 2004? In your response, please indicate whether you will be searching for records pertaining to Frank Black Horse in DOJ file number 90-2-7-2946, 95-100-1094, and 95-100-1099. If not, please be advised that I am interested in receiving copies of material concerning Frank Black Horse contained in these files.

I have enclosed a copy of a letter dated June 16, 2006 that I received from Mr. Fred Romanski, Archivist, Civilian Records, Textual Archives Services Division, National Archives and Records Administration. This letter will assist you in locating the three files referenced above.

I look forward to hearing from you shortly.

Thank you.

Yours truly,

Michael Kuzma, Esq.

Enclosure



## *National Archives and Records Administration*

8601 Adelphi Road  
College Park, Maryland 20740-6001

June 16, 2006

Mr. Michael Kuzma  
1893 Clinton Street  
Buffalo, New York 14206

Dear Mr. Kuzma:

This is in response to your May 22, 2006, Freedom of Information Act request (27591) in which you requested that a search be conducted for files concerning Frank Black Horse. We received your request on June 2, 2006.

A search was conducted among the general records of the Department of Justice, specifically we checked the records of the "Criminal Division, Internal Security Index" and the records of the "Criminal Division, Alphabet Index" and in both instances no information was found relating to Frank Black Horse.

A search of other Department of Justice holdings however revealed that the following Department of Justice case files were opened for Frank Black Horse, DOJ file number 90-2-7-2946, accession number 60-70-A-3747, Box 309 and DOJ files 95-100-1094 and 95-100-1099 that were assigned to accession number 60-77-241 Bx. 10. We searched for all of the aforementioned case files and accessions among our holdings here at Archives II, specifically we checked Job No. NN3-060-99-009 containing classified and unclassified accessions that came to Archives II in the year 1999 and accession number 60-70-A-3747 Box 309 is not among our holdings. We found that accession 60-77-241, Bx. 10 is located at the Washington National Records Center in Suitland, Maryland but still in the custody of the Department of Justice. In order to gain access to that material you will have to file a FOIA request with the Criminal Division of the Department of Justice at the following address and request that a search be conducted for the aforementioned files:

Office of the Assistant Attorney General, Criminal Division  
Department of Justice  
10<sup>th</sup> Street and Pennsylvania Avenue NW.,  
Washington, D.C. 20530

We do not consider this response a denial under the Freedom of Information Act because the records in our custody do not include the information you requested. If you consider this an adverse response, you may appeal by writing the Deputy Archivist (ND), National Archives and



Records Administration, Washington, D.C. 20408-0002 and explain why you think our search does not meet the requirements of the FOIA.

Sincerely,

A handwritten signature in cursive script that reads "Fred Romanski". The signature is written in dark ink and is positioned above the printed name.

FRED ROMANSKI

Archivist, Civilian Records

Textual Archives Services Division

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 8**



Criminal Division

Office of Enforcement Operations

Washington, D.C. 20530

CRM-200400764F

SEP 14 2006

Mr. Michael Kuzma  
Attorney at Law  
1893 Clinton Street  
Buffalo, New York 14206

Dear Mr. Kuzma:

This is in response to your letter dated September 5, 2006, in which you inquire as to the status of your request for records pertaining to Frank Black Horse.

An analyst has completed the processing of pertinent records and it is in the final stage of supervisory review. The only DOJ file number located in our search under Frank Black Horse was 95-800-69-1. We will contact the Criminal Division Records Unit and attempt to order the files listed in your letter.

Sincerely,

Thomas J. McIntyre, Chief  
Freedom of Information/Privacy Act Unit

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 9**



Federal Bureau of Investigation

Washington, D.C. 20535

November 14, 2008

MR MICHAEL KUZMA, ESQ  
ATTORNEY AT LAW  
1893 CLINTON STREET  
BUFFALO, NY 14206

Request No.: 1099233- 000  
Subject: BLACKHORSE, FRANK

Dear Mr Kuzma

While processing your Freedom of Information-Privacy Acts (FOIPA) request, the United States Department of Justice, Criminal Division located FBI information in their records. This material was referred to the FBI for direct response to you.

We have located approximately 927 pages which are potentially responsive to your request. Pursuant to Title 28, Code of Federal Regulations (CFR), Sections 16.11 and 16.49, there is a duplication fee of ten cents per page. The first 100 pages will be provided to you free of charge. Regulations require us to notify requesters when anticipated charges exceed \$25, and if all of the pages are released, you will owe \$ 82.70 in duplication fees. Please remember this is only an estimate, and if some of the pages are withheld or are not identifiable with your subject, the actual charges could be less.

You may want to consider reducing the scope of your request. This would allow you to lower your costs and hasten the receipt of your information. To streamline our operation, we divide our requests into three tracks based on the amount of material to be processed: small (1-500 pages); medium (501-2500 pages) and large (2501 or more pages), with the small track having the fastest rate of processing. To accelerate the processing of your request, you must reduce the pages to be processed to 500 pages or less. **Please let us know in writing** if you are interested in discussing the possibility of reducing the scope of your request or if you are willing to pay the estimated duplication cost indicated in the above paragraph **within 45 days** of the date on this letter. Your written response should provide a telephone number where you can be reached between the hours of 8:00 a.m. and 5:00 p.m., EST. You may also fax your response to the following number: 540-868-4996, Attention: Work Processing Unit. You must include the FOIPA request number in any communication regarding this matter.

As stated previously, the cost indicated is only an estimate, therefore, no payment should be made at this time.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over a horizontal line.

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 10**



**Michael Kuzma**

*Attorney at law*

1893 Clinton Street  
Buffalo, New York 14206

716.822.7645

Fax: 716.823.1815 Cell: 716.474.3824

kuzma\_michael@hotmail.com

November 28, 2008

Mr. David M. Hardy  
Section Chief  
Record/Information Dissemination Section  
Records Management Division  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N. W.  
Washington, D. C. 20535-0001

***Re: Request No. 1099233-000***

Dear Mr. Hardy:

In regard your letter dated November 14, 2008, enclosed please find my remittance in the amount of \$82.70 for copies of the documents pertaining to Frank Blackhorse. You may send them to me at the address listed above.

Thank you.

Yours truly,

A handwritten signature in cursive script that reads "Michael Kuzma".

Michael Kuzma, Esq.

Enclosure



# CUSTOMER'S RECEIPT

<b>SEE BACK OF THIS RECEIPT FOR IMPORTANT CLAIM INFORMATION</b>  <b>NOT NEGOTIABLE</b>	Pay to	FEDERAL BUREAU OF INVESTIGATION					<b>KEEP THIS RECEIPT FOR YOUR RECORDS</b>
	Address	WASHINGTON DC 20535-0001					
	REQUEST NO. 1099233-000						
Serial Number	Year, Month, Day	Post Office	Amount	Clerk			
16339641322	2008-11-19	142400	\$82.70	0007			



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 11**



**Michael Kuzma**

*Attorney at law*

1893 Clinton Street  
Buffalo, New York 14206

716.822.7645

Fax: 716.823.1815 Cell: 716.474.3824

kuzma\_michael@hotmail.com

January 20, 2009

Mr. David M. Hardy  
Section Chief  
Record/Information Dissemination Section  
Records Management Division  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N. W.  
Washington, D. C. 20535-0001

***Re: Request No. 1099233-000***

Dear Mr. Hardy:

On December 22, 2008, my letter of November 28, 2008 and money order in the amount of \$82.70 was returned to me by your agency. There was no cover letter, nor was there any explanation as to why these items were being returned to me.

Please advise me when you anticipate that processing of the documents concerning Frank Blackhorse will be completed. I am still interested in receiving this material and will gladly pay copying fees.

Thank you for your prompt attention to this matter.

Yours truly,

A handwritten signature in cursive script that reads "Michael Kuzma". The signature is written in dark ink and is positioned above the printed name.

Michael Kuzma, Esq.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 12**



Federal Bureau of Investigation

Washington, D.C. 20535

February 25, 2009

MR MICHAEL ESQ KUZMA  
ATTORNEY AT LAW  
1893 CLINTON STREET  
BUFFALO, NY 14206

Request No.: 1099233- 001  
Subject: BLACKHORSE, FRANK

Dear Mr. Kuzma:

This is in reference to your Freedom of Information Act (FOIA) request to *the United States Department of Justice, Criminal Division* for information pertaining to the above subject. While processing your request, FBI information was located and referred to this Bureau for response to you.

The referred documents relate to someone else, and disclosure of third party information is considered an unwarranted invasion of privacy. Absent proof of death or a privacy waiver from the individuals involved, these records are exempt from disclosure pursuant to Title 5, United States Code, Section 552, exemptions (b)(6) and/or (b)(7)(C). See the enclosed form for an explanation of these exemptions.

You may appeal this denial by writing to the Office of Information and Privacy, United States Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, within sixty days from the date of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIA number assigned to your request so that it may be easily identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over a horizontal line.

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

Enclosure

**EXPLANATION OF EXEMPTIONS****SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ( A ) could be reasonably be expected to interfere with enforcement proceedings, ( B ) would deprive a person of a right to a fair trial or an impartial adjudication, ( C ) could be reasonably expected to constitute an unwarranted invasion of personal privacy, ( D ) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, ( E ) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or ( F ) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

**SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a**

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 13**



**Michael Kuzma**

*Attorney at law*

**1893 Clinton Street  
Buffalo, New York 14206**

**716.822.7645**

**Fax: 716.823.1815 Cell: 716.474.3824**

**kuzma\_michael@hotmail.com**

April 6, 2009

Mr. David M. Hardy  
Section Chief  
Record Information Dissemination Section  
Records Management Division  
Federal Bureau of Investigation  
935 Pennsylvania Avenue, N. W.  
Washington, DC 20535

**RE: REQUEST NO. 1099233-001**

Dear Mr. Hardy:

In regard to your letter dated February 25, 2009, please note that, by letter dated July 6, 2004, I specifically advised Mr. Thomas J. McIntyre, Chief, FOIA/PA Unit, Criminal Division, U. S. Justice Department, that I was only interested in receiving public source material concerning Mr. Frank Blackhorse (see enclosures). In addition, when I spoke to Mr. Barry McKay from your agency on February 25, 2009, I related the same information to him.

In light of the above, I would ask that my FOIA request be reopened and that the sought-after material be processed without any further delay.

Thank you.

Yours truly,

A handwritten signature in cursive script that reads "Michael Kuzma".

Michael Kuzma, Esq.

Enclosures

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 14**





**Michael Kuzma**

*Attorney at law*

**1893 Clinton Street  
Buffalo, New York 14206**

**716.822.7645**

**Fax: 716.823.1815 Cell: 716.474.3824**

**kuzma\_michael@hotmail.com**

April 6, 2009

Ms. Janice Galli McLeod  
Associate Director  
Office of Information and Privacy  
U. S. Department of Justice  
1425 New York Avenue, N. W., Suite 11050  
Washington, D. C. 20530-0001

**RE: FREEDOM OF INFORMATION ACT APPEAL**

Dear Ms. McLeod:

This is an appeal pursuant to subsection (a) (6) of the Freedom of Information Act (FOIA), as amended (5 USC §552).

By letter dated February 25, 2009, Mr. David M. Hardy, Section Chief, Record/Information Dissemination Section, Records Management Division, Federal Bureau of Investigation (FBI), advised me that documents concerning Frank Blackhorse, which had been referred to the FBI by the Criminal Division of the U. S. Department of Justice, could not be released to me because disclosure would be considered an unwarranted invasion of privacy under 5 USC 552 (b) (6) and/or (b) (7) (C). See Request Number 1099233-001. A copy of Mr. Hardy's letter is enclosed for your information.

It should be noted that by letter dated July 6, 2004, I specifically advised Mr. Thomas J. McIntyre, Chief, FOIA/PA Unit, Criminal Division, U. S. Justice Department (see enclosures), that I was only interested in receiving public source material concerning Mr. Blackhorse. In addition, in a telephone conversation with Mr. Barry McKay, FBI, (540) 868-4164, on February 25, 2009, I informed him of the type of information I was seeking access to.

I trust that upon examination of this request, you will conclude that my FOIA request for information relating to Frank Blackhorse was improperly denied by the FBI and that you will direct the FBI to release all documents falling within the scope of my request.

As provided in FOIA, I will expect to receive a reply to this administrative appeal letter within 20 working days.

Yours truly,

Michael Kuzma, Esq.

Enclosures

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 15**



Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

APR 29 2009

Michael Kuzma, Esq.  
1893 Clinton Street  
Buffalo, NY 14206

Re: Request No. 1099233-001 (Frank Blackhorse)

Dear Mr. Kuzma:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on April 23, 2009.

The Office of Information Policy, which has the responsibility of adjudicating such appeals, has a substantial backlog of pending appeals received prior to yours. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **09-1580**. Please mention this number in any future correspondence to this Office regarding this matter.

We will notify you of the decision on your appeal as soon as we can. We regret the necessity of this delay and appreciate your continued patience.

Sincerely,

Priscilla Jones  
Supervisory Administrative Specialist

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 16**



Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

JUL 14 2009

Michael Kuzma, Esq.  
1893 Clinton Street  
Buffalo, NY 14206

Re: Appeal No. 09-1580  
Request No. 1099233-001  
ADW:SVJ

Dear Mr. Kuzma:

You appealed from the action of the Federal Bureau of Investigation on records referred to it by the Criminal Division in response to your request for access to records pertaining to Frank Blackhorse.

After carefully considering your appeal, and as a result of discussions between FBI personnel and a member of my staff, I have been informed that subsequent to your appeal, the FBI re-opened your request and is currently processing responsive documents for release to you. I am, therefore, administratively closing your appeal file in this Office. The FBI will send any and all releasable records to you directly, subject to any fees. You may appeal any future adverse determination made by the FBI. If you would like to inquire about the status of your request, please contact the FBI directly.

Sincerely,

Janice Galli McLeod  
Associate Director

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 17**



**Federal Bureau of Investigation**

*Washington, D.C. 20535*

*April 27, 2009*

MR. MICHAEL KUZMA  
ATTORNEY AT LAW  
1893 CLINTON STREET  
BUFFALO, NY 14206

Request No.: 1099233- 002  
Subject: BLACKHORSE, FRANK

Dear Mr. Kuzma:

The purpose of this letter is to advise you of the change in status of your Freedom of Information/Privacy Acts (FOIPA) request to the *United States Department of Justice, Criminal Division* referred to the Federal Bureau of Investigation (FBI) for processing. On February 25, 2009, you were mailed a letter informing you that the FBI could not process your request due to the absence of proof of death or a third party waiver. Upon further inspection, FBI Records Management Division (RMD) has determined that potentially responsive public source documents may exist. Your request has been re-opened under the FOIPA number listed above.

You may inquire as to the status of your request by calling the FBI's FOIPA Public Information Center at 540-868-4593.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is positioned above the typed name of the sender.

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 18**





**Federal Bureau of Investigation**

*Washington, D.C. 20535*

May 14, 2009

MR. MICHAEL KUZMA, ESQ  
ATTORNEY AT LAW  
1893 CLINTON STREET  
BUFFALO, NY 14206

Request No.: 1099233- 002  
Subject: BLACKHORSE, FRANK

Dear Mr. Kuzma:

This is in further reference to your Freedom of Information (FOIA) request pertaining to Frank Blackhorse in which you requested only public source material. It has been determined that there is no public source material contained in the documents that were referred to the Federal Bureau of Investigation from the **United States Department of Justice/Criminal Division**.

You may appeal any denials by writing to the Director, Office of Information Policy, United States Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C., 20530-0001, within sixty days from the date of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the FOIA number assigned to your request so that it may easily be identified.

Sincerely yours,

A handwritten signature in black ink, appearing to read "D. Hardy", is written over a horizontal line.

David M. Hardy  
Section Chief,  
Record/Information  
Dissemination Section  
Records Management Division

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

---

**EXHIBIT 19**



**Michael Kuzma**

*Attorney at law*

**1893 Clinton Street  
Buffalo, New York 14206**

**716.822.7645**

**Fax: 716.823.1815 Cell: 716.474.3824**

**kuzma\_michael@hotmail.com**

June 12, 2009

Ms. Janice Galli McLeod  
Associate Director  
Office of Information and Privacy  
U. S. Department of Justice  
1425 New York Avenue, N. W., Suite 11050  
Washington, D. C. 20530-0001

**RE: FREEDOM OF INFORMATION ACT APPEAL**

Dear Ms. McLeod:

This is an appeal pursuant to subsection (a) (6) of the Freedom of Information Act (FOIA), as amended (5 USC §552).

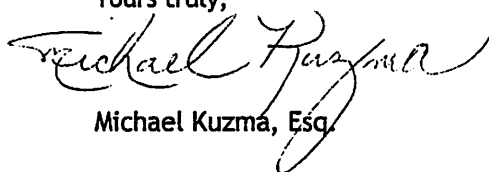
By letter dated May 14, 2009, Mr. David M. Hardy, Section Chief, Record/Information Dissemination Section, Records Management Division, Federal Bureau of Investigation (FBI), advised me that there was no public source material contained in the documents pertaining to Frank Blackhorse. The Criminal Division of the U. S. Department of Justice had referred these records to the FBI for review. See Request Number 1099233-002. A copy of Mr. Hardy's letter is enclosed for your information.

The decision by the FBI to deny my FOIA request was incorrect and is in direct contravention of President Obama's Memorandum for the Heads of Executive Departments and Agencies dated January 21, 2009, wherein he indicated that a " . . . presumption of disclosure should be applied to all decisions involving FOIA."

I trust that upon examination of this request, you will conclude that my FOIA request for public source material relating to Frank Blackhorse was improperly denied by the FBI and that you will direct the FBI to release all documents falling within the scope of my request.

As provided in FOIA, I will expect to receive a reply to this administrative appeal letter within 20 working days.

Yours truly,



Michael Kuzma, Esq.

Enclosure

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 20**



Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

**JUN 30 2009**

Michael Kuzma, Esq.  
1893 Clinton Street  
Buffalo, NY 14206

Re: Request No. 1099233-002 - Frank Blackhorse

Dear Mr. Kuzma:

This is to advise you that your administrative appeal from the action of the Federal Bureau of Investigation was received by this Office on June 26, 2009.

The Office of Information Policy, which has the responsibility of adjudicating such appeals, has a substantial backlog of pending appeals received prior to yours. In an attempt to afford each appellant equal and impartial treatment, we have adopted a general practice of assigning appeals in the approximate order of receipt. Your appeal has been assigned number **09-2095**. Please mention this number in any future correspondence to this Office regarding this matter.

We will notify you of the decision on your appeal as soon as we can. We regret the necessity of this delay and appreciate your continued patience.

Sincerely,

Priscilla Jones  
Supervisory Administrative Specialist

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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MICHAEL KUZMA  
1893 Clinton Street  
Buffalo, NY 14206,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, N. W.  
Washington, DC 20530,

Defendant.

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**EXHIBIT 21**



Office of Information Policy

Telephone: (202) 514-3642

Washington, D.C. 20530

**SEP 11 2009**

Michael Kuzma, Esq.  
1893 Clinton Street  
Buffalo, NY 14206

Re: Appeal No. 09-2095  
Request No. 1099233-002  
ADW:CF

Dear Mr. Kuzma:

You appealed from the action of the Headquarters Office of the Federal Bureau of Investigation on records referred to it by the Criminal Division of the United States Department of Justice pursuant to your request for access to public source records pertaining to Frank Blackhorse.

After carefully considering your appeal, I am affirming the FBI's action on the records referred to it by the Criminal Division. The FBI informed you that it could locate no public source records responsive to your request among the records referred to it. I have determined that the FBI's response was correct.

If you are dissatisfied with my action on your appeal, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

Janice Galli McLeod  
Associate Director